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In the

Supreme Court of the United States

OCTOBER TERM, 1970

No. 1561

CONTINENTAL/MOSS-GORDIN, et al.,
Petitioners,

v.

B-M-G INVESTMENT COMPANY, et al.,
Respondents.

MOTION OF RESPONDENTS FOR DAMAGES FOR DELAY

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Respondents, B-M-G Investment Company and Duncan Boeckman, Trustee, respectfully move the Court to adjudge to the Respondents reasonable damages for the delay occasioned by Petitioners' Application for Certiorari, and as grounds therefor, would show:

1.

That on the 8th day of April, 1971 Petitioners filed herein their petition for writ of certiorari to the United States Court of Appeals for the Fifth Circuit.

2.

No reasonable basis exists for invoking the jurisdiction of the Supreme Court. The decisions of the courts below were correct and the case is wholly inappropriate for consideration by the Supreme Court. Petitioners' application for writ of certiorari is frivolous and is made solely for the purpose of delay.

3.

Under the provisions of Rule 56(2) and (4) of the Rules of the Supreme Court of the United States this Court may, and, it is submitted, should adjudge to Respondents damages for the delay occasioned by Petitioners' frivolous application for writ of certiorari.

4.

Respondents' judgment is in the amount of $593,333, together with interest at the rate of 6% per annum on the principal sum of $680,000 from April 30, 1968 until April 11, 1969, and at the rate of 6% per annum on the principal sum of $593,333 from April 11, 1969 until paid. There is now due and owing to Respondents the sum of $696,757.70, including principal, interest accrued thereon to April 1, 1971, and attorneys' fees as allowed by the Court of Appeals.

5.

At the time of filing this motion Respondents have filed herein their Brief in opposition to such Petition for Writ of Certiorari. Respondents respectfully request the Court to consider such Brief as a brief in support of this motion.

CONCLUSION

Respondents respectfully pray that Petitioners' application for writ of certiorari be denied and that Respondents be allowed damages for delay in the amount of 10% of the amount due in respect of their judgment, or for such other amount as the Court may deem just.

Respectfully submitted,

Original Signed by
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